REMARKS

Claims 1-18 are pending in this application. Claim 7 has been amended to provide for correct antecedent basis. As a result of the amendment to claim 7, Applicants request removal of the rejection under 35 U.S.C. § 112. Claim 23 has been amended to further define the invention. No new matter has been incorporated as a result of these amendments. Applicants acknowledge the indication of allowable subject matter in claims 4, 6, 10, 16, 17, 20-22, and 25.

Rejections under 35 U.S.C. § 103

Applicants respectfully request reconsideration of the rejection of claims 1-3, 5, 8, 9, 11-15, 18, 19, 23, and 24 under 35 USC 103 as being unpatentable over U.S. Patent No. 6,714,555 to Excell et al. in view of U.S. Patent No. 6,477,144 to Morris et al. in light of the remarks presented herein.

Claim 1 includes the feature of determining a first penalty for a weight vector entity associated with the first port based on a weight value associated with each link from a first subset of links from the plurality of links for the first port, each link from the first subset of links not being associated with a candidate packet. The Examiner acknowledges that Excell does not teach this feature, however, the Examiner asserts that Morris teaches this feature. Applicants respectfully disagree with this assertion for the following reasons.

Morris teaches a method and apparatus for scheduling traffic classes in a time linked fashion based on the bandwidth allocated to each traffic class. A list of Tnext values representing timeslots when a corresponding cell is to go out is compared to a reference

counter. If the Tnext value is less than or equal to the reference counter value then the class is selected and the cell is sent out. The Tnext value is then incremented by a Tupdate value, where the T update value represents a time interval between sending out cells for that class. When a queue is empty, the scanner bypasses the queue (see Figure 7 and column 4, lines 23-27). According to the Examiner bypassing an empty queue teaches determining a first penalty for a weight vector entity associated with the first port based on a weight value associated with each link from a first subset of links from the plurality of links for the first port, each link from the first subset of links not being associated with a candidate packet.

The Applicants respectfully submit that bypassing an empty queue does not teach determining a penalty for a weight vector entity based on a weight value associated with each link not associated with a candidate packet. Simply bypassing an empty queue does not teach applying a penalty. The Applicants respectfully request that the Examiner point out where Morris teaches a weight vector entity based on a weight value associated with each link. Morris never discusses a weight vector entity based on a weight value. It cannot be reasonably asserted that the Tnext value and the Tupdate values are weight vector entities based on a weight value, as Tnext and Tupdate are both derived from the inverse of the allocated bandwidth (see column 4, lines 55-56). As defined in the specification of the present application, a weight vector represents the weight values for a set of links for an associated port (see page 30). Nowhere does Morris disclose a weight vector as defined in the present application. Moreover, the Examiner seems to be equating each link not being associated with a candidate packet with an empty queue. This correlation is incorrect as a link in claim 1 may have a packet available, but not a candidate packet. More specifically, Morris only applies to an empty queue, while one of the features of claim 1 is directed to a subset of links not associated with a candidate packet.

Accordingly, Applicants respectfully request reconsideration of the rejection of claim 1 as the combination of Excell and Morris fails to disclose each and every element of claim 1. Claims 2-10 ultimately depend from claim 1 and a re patentable over the combination of Excell and Morris for at least the same reasons.

Claim 11 is directed to an apparatus that includes a selection unit associated with a plurality of links, the selection unit being configured to transmit an arbitration signal and a penalty signal based on a weight value associated with each link from the plurality of links. The Examiner acknowledges that Excell does not teach transmitting a penalty signal or an update unit receiving a penalty signal. According to the Examiner, Morris teaches transmitting a penalty signal since it is inherent that a signal is sent to the scanner telling it to bypass that class. Bypassing the class is a penalty according to the Examiner since the class is not serviced. The Applicants disagree with this characterization as bypassing the class in Morris is not a penalty since the queue is empty. There is nothing to service as the queue is empty, therefore, there can be no penalty. The Applicants respectfully request that the Examiner elaborate on how bypassing an empty queue is a penalty.

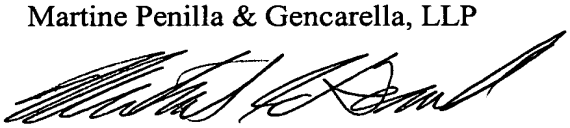
Additionally, the Examiner states that Excell teaches a selection unit associated with a plurality of links, the selection unit configured to transmit an arbitration signal based on a weight value. The Examiner refers to the number of stored in the data stores to be switched for the current switching period in Excell as disclosing this feature (see column 5, lines 48-53). Reading further in Excell, the processor generates an ATM cell containing request data representing the number of ATM cells in the data stores is multicast and replicated to each output port. The Applicants fail to see how this correlates to an arbitration signal, as nothing is arbitrated through this signal.

The Applicants would like to further point out that claim 11 includes the feature of a selection unit transmitting a penalty signal based on a weight value. Nowhere, does Morris discuss a weight value. Therefore if the Examiner continues to assert that the signal to bypass the queue is a penalty signal, the Applicants request that the Examiner identify the weight value of which the penalty signal is based upon. Accordingly, for at least the above stated reasons the Applicants submit that claim 11 is patentable over the combination of Excell and Morris. Claims 12-22 ultimately depend from claim 11 and are patentable for at least the above stated reasons.

Claim 23 has been amended to further define that the penalty signal causes a reduction in at least one of the weight values of the plurality of links. This feature is neither taught nor disclosed by the combination of Excell and Morris. Accordingly claim 23, and dependent claims 24-25, are allowable over the combination of Excell and Morris for at least the above stated reasons.

Applicants respectfully request a Notice of Allowance based on the foregoing remarks. If the Examiner has any questions concerning the present amendment, the Examiner is kindly requested to contact the undersigned at (408) 774-6921. If any other fees are due in connection with filing this amendment, the Commissioner is also authorized to charge Deposit Account No. 50-0805 (Order No. ALTEP035). A copy of the transmittal is enclosed for this purpose.

Respectfully submitted,
Martine Penilla & Gencarella, LLP



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